

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL MEMORANDUM

HB 7010 – SB 7005

FIRST EXTRAORDINARY SESSION

January 18, 2010

SUMMARY OF AMENDMENT (012359): Deletes all language after the enacting clause of the original bill.

Authorizes the Commissioner of Education to move any public school or local education agency (LEA) into or out of a newly created "Achievement School District" (ASD) if the school is in the fifth year of improvement status or at any time a Title I school meets the U.S. Department of Education's definition of "persistently lowest achieving schools." Requires LEAs to continue to provide support services to schools placed into the ASD. Requires LEAs to fund their share of BEP for schools placed in the ASD. Authorizes the Commissioner to contract with an individual, government entity, or nonprofit entity to manage the day-to-day operations of the ASD. The Administrator of the ASD may apply to the Commissioner for a waiver of any State Board of Education (Board) rule that hinders the ability of the school or LEA to meet adequate yearly progress (AYP) benchmarks.

Authorizes the administrator of the ASD to determine whether any teacher previously assigned to a school in the ASD will have the option of continuing to teach at that school. Any teacher not retained in the ASD will remain an employee of the LEA, subject to provisions in current law for dismissal. Eliminates current law restriction on use of specific teacher's effect on the educational progress of students in formal personnel evaluations. Schools or LEAs will remain in the ASD until achieving AYP for three consecutive years, at which time they will transition back to their pre-ASD status.

Requires that absent other sources of funding, the ASD will be funded through state and local dollars. These funds can be used to fund new initiatives and programs per the goals of the ASD as long as the use of such funding does not create an increase in recurring financial obligations on the LEA when the school or LEA is removed from the ASD. State funds that are not used to fund the ASD will be placed into a state reserve account to be distributed to the LEA upon the approval by the Commissioner of Education. LEA funds that are not used to support the ASD will be placed into an LEA special BEP reserve account to be held until the school or LEA is returned to regular LEA control.

Requires individuals or entities under contract with the Department of Education to operate schools or LEAs in the ASD to give information to the LEA and director of schools regarding its operation of ASD schools on matters of employment. Authorizes the LEA to support educational improvement of the ASD school(s) under the guidance of the Commissioner of Education. Authorizes any contract ASD operators to provide additional professional development, instructional or administrative support, or other support as deemed necessary. Requires contracts for ASD operators to contain expenditure reports for funds received and

**HB 7010 – SB 7005
FIRST EXTRAORDINARY SESSION**

expended and requires that these reports be given to the Department of Education and the Comptroller. Prohibits state funds other than those held in special reserve accounts to be expended on ASD schools or LEAs unless appropriated by the General Assembly.

Creates a Teacher Evaluation Advisory Committee (TEAC). The TEAC shall consist of 15 members including the Commissioner of Education, the Executive Director of the State Board of Education, chairs of the House and Senate Education Committees of the General Assembly, one public K-12 teacher appointed by the Speaker of the Senate, and one K-12 public teacher appointed by the Speaker of the House. Nine members shall be appointed by the Governor consisting of three public school teachers, two public school principals, one director of an LEA, and three members representing other stake holder interests including one parent. All appointments shall be made within 30 days of the effective date of the bill.

Requires the Teacher Evaluation Advisory Committee (TEAC) to develop and recommend to the State Board of Education (SBOE) guidelines and criteria for annual evaluation of all teachers and principals, including a grievance procedure. Requires that fifty percent of the evaluation criteria shall be composed of student achievement data with thirty-five percent consisting of Tennessee Value-Added Assessment System data and fifteen percent on other student achievement data as developed by the TEAC. Requires that each teacher and principal shall mutually agree with the person(s) performing the evaluation on the evaluation measures used. If there is disagreement on evaluation measures, the person(s) conducting the evaluation shall choose the evaluation measures. If the teacher or principal's student growth data reflects a certain level of achievement specified by the TEAC and at the consent of the individual being evaluated, fifty percent of their evaluation shall be based on student achievement data. Requires the SBOE to adopt such policies. Places the TEAC under the provisions of sunset review and requires the TEAC to terminate on July 1, 2011, unless extended by the General Assembly.

Prohibits teachers under 100 day (or less) contracts to be evaluated under the same system as regular K-12 teachers.

Requires that principal contracts contain provisions detailing annual principal evaluation. Requires that the standards for annual evaluation be in keeping with the criteria and guidelines adopted by the TEAC and the SBOE.

Authorizes LEAs to develop their own proposed salary schedules, subject to approval by the Commissioner and the State Board of Education. Requires that any increase in LEA expenditures as a result of the LEA implementing its own salary schedule shall be subject to local appropriation of funds. No salary schedule may reduce the salary of any teacher employed at the time the salary schedule is adopted.

Grants any tenured teacher the right to a hearing before an impartial hearing officer selected by the local board of education prior to termination and sets forth provisions for appeal. Under current law, this right applies only to teachers in Shelby and Davidson counties.

Establishes the Teacher Professional Development Fund into which federal monies will be deposited for the purposes of improved teaching, pedagogical skills, and classroom instruction.

Requires the Department of Education to give the General Assembly an annual report on the amount of Race to the Top funds that are awarded to each LEA and the ASD.

FISCAL IMPACT OF ORIGINAL BILL:

Increase Federal Expenditures –	Exceeds \$121,250,000 FY 10-11 Exceeds \$121,250,000 FY 11-12 Exceeds \$121,250,000 FY 12-13 Exceeds \$121,250,000 FY 13-14
Increase State Revenue -	Exceeds \$60,625,000 FY 10-11 Exceeds \$60,625,000 FY 11-12 Exceeds \$60,625,000 FY 12-13 Exceeds \$60,625,000 FY 13-14
Increase State Expenditures –	Exceeds \$60,625,000 FY 10-11 Exceeds \$60,625,000 FY 11-12 Exceeds \$60,625,000 FY 12-13 Exceeds \$60,625,000 FY 13-14
Increase Local Revenue -	Exceeds \$60,625,000 FY 10-11 Exceeds \$60,625,000 FY 11-12 Exceeds \$60,625,000 FY 12-13 Exceeds \$60,625,000 FY 13-14
Increase Local Expenditures –	Exceeds \$60,725,000 FY 10-11* Exceeds \$10,000,000/FY10-11/Permissive Exceeds \$60,725,000 /FY 11-12* Exceeds \$10,000,000/FY11-12/Permissive Exceeds \$60,725,000 /FY 12-13* Exceeds \$10,000,000/FY 12-13/Permissive Exceeds \$60,725,000 /FY 13-14* Exceeds \$10,000,000/FY 13-14/Permissive

Other Fiscal Impact – Funds from recurring appropriation of state revenue will be shifted from existing programs of the Department of Education to fund programs and activities related to "Race to the Top" funding. According to the Department, the funds shifted from existing programs will not be replaced by additional state revenue. There will be no increase in state tax revenue appropriated to the Department as a result of this bill. The Department is unable to specify the amount of funds that will be shifted to "Race to the Top" programs and activities and is unable to identify the current programs that will be affected.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions applied to amendment:

- Enactment of this legislation will make the State of Tennessee eligible to apply for Phase I competitive grants under the federal "Race to the Top" program. The State is seeking funding in the amount of \$485 million spread over four years. Federal Department of Education guidance published on November 18, 2009, states that Tennessee is in Category 3, which, for planning purposes, estimates that Tennessee could receive \$150-250 million. This range is non-binding and states have been encouraged by the federal Department of Education to apply for grants in the full amount needed to fund all planned activities. Tennessee will apply for \$485 million in "Race to the Top" grants. According to the state Department of Education, Tennessee will be well positioned to receive the full amount that it is seeking. Race to the Top funds will be received beginning in September 2010 and will be received in equal increments over four fiscal years.
- If Tennessee receives less than \$485 million, programs and activities under this bill will be reduced so that state expenditures will not exceed the federal funds that are made available.
- If Tennessee receives \$485 million in Race to the Top grants, programs and activities will be undertaken at the state level, including but not limited to the following: common core standards and assessment rollouts and professional development; development and implementation of a new teacher and principal evaluation system including professional development; capacity-building professional development regarding use of new and existing data systems to improve instruction and student performance; and funding specific activities and interventions in the ASD and other schools that fail to meet AYP standards.
- Race to the Top funds will be distributed in the following manner: 50 percent will be retained by the state Department of Education to meet its one-time responsibilities under this bill, and 50 percent will be distributed to LEAs under the Title I formula. The State and LEAs will each receive \$60,625,000 in each of the four years.
- Expenditures under the BEP will not increase as a result of these changes.
- The ASD, including the contract for operation of the ASD, will be funded exclusively with Race to the Top funds. Control of any remaining schools or LEAs that have not met the AYP requirements once Race to the Top funds have been fully expended will revert to their regular LEA and will be funded through current sources of revenue, subject to performance requirements established in this bill.
- State and local BEP funding that would have been spent on schools moved to the ASD will be escrowed in special BEP reserve accounts and held until control of the schools return to their regular LEA.
- The Department of Education has identified thirteen schools that will be placed into the ASD. Statewide, there are at least 16 schools that would be eligible for inclusion in the ASD on the basis of being in the fourth or fifth year of improvement status under No

Child Left Behind. The number of Title I schools that may be eligible for inclusion in the ASD is not known. The total number of schools included will be subject to the limitations of Race to the Top funding.

- State and local dollars may be used to fund the ASD. However, state and local monies cannot be used to fund programs or initiatives that will have an increase in recurring state or local expenditures. No change in the fiscal impact as shown on the original fiscal note.
- Provisions requiring ASD contracts to contain expenditure reports that will be given to the Department of Education and the Comptroller and prohibiting state funds, other than those held in special reserve accounts, to be expended on ASD schools or LEAs unless appropriated by the General Assembly will have no impact on state or local government.
- Authorizing ASD contract entities to work and communicate with LEAs will have no fiscal impact on state or local government.
- The composition of the TEAC will be changed. This change will have no fiscal impact on state or local government. The TEAC will meet monthly. Its non-legislative members will incur travel expenses. Specifying that members come from certain non-legislative categories will not require an increase in expenditures. The total number of TEAC members is unchanged. Its legislative members will incur travel and per diem expenses. These costs will be paid from Race to the Top funds and existing state appropriations to the state Department of Education. The TEAC will no longer meet once Race to the Top funds have been fully expended.
- The TEAC will be subject to sunset review. Any increase in state expenditures is estimated to be not significant.
- Additional hearings conducted by impartial hearing officers will be conducted on proposed tenured teacher dismissals statewide. Local governments will be required to fund the cost of employing these officers. According to the state Department of Education, hearings will be relatively infrequent. The additional cost to local governments is estimated to exceed \$100,000 per year.
- Any increase in teacher salaries in the ASD, including but not limited to incentive pay, will be funded through Race to the Top funds. Once a teacher leaves the employ of the ASD, the teacher's salary will revert to the level provided in the regular LEA salary schedule.
- Some regular LEAs will propose a higher salary schedule for teachers. These higher salaries may be funded with the local share of Race to the Top funds to the extent that such funds are used for teacher pay that furthers the purposes of the Race to the Top program. For other teacher pay increases, local governments will be responsible for identifying a separate local funding source. Any increase in teacher pay proposed by a regular LEA is permissive. The state-wide local permissive impact of increased teacher pay in regular LEAs is estimated to exceed \$10,000,000 each year. Requiring that any local salary schedule increases be subject to local appropriation will not affect the impact of the original bill.
- Race to the Top funding will be used for making changes to the annual evaluation system for teachers and principals. Race to the Top funding will be used to fund any increase in state or local expenditures related to the implementation of these changes.
- CTE classes will continue to be sized at the current maximum class size. CTE classes will continue to be funded and staffed at the current BEP level.

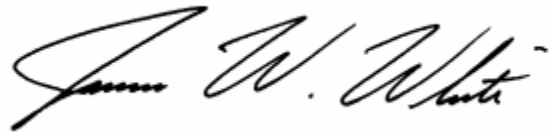
HB 7010 – SB 7005
FIRST EXTRAORDINARY SESSION

- Creating a fund from which federal monies from Race to the Top will be expended will have no fiscal impact on state or local government.
- The Department of Education will annually report to the General Assembly the amount of Race to the Top funds awarded to LEAs and the ASD. Any increase in state or local expenditures is estimated to be not significant and can be absorbed within existing resources.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with the first name "James" written in a smaller, more compact script than the last name "White".

James W. White, Executive Director

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